

HOUSE BILL 3158  
By Shepard

AN ACT to amend Tennessee Code Annotated, Title 56, relative to prior authorization of health care services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by adding the following as a new, appropriately designated section:

(a) A health insurance entity, as defined in § 56-7-109(a)(3), shall not issue a denial of payment, including a revocation of the authorization for payment or a retrospective denial of payment, for any claim for medical services for which that physician's representative has previously obtained authorization if the documentation for the claim supports the case originally presented to the health insurance entity by the physician or the physician's representative.

(b) A health insurance entity shall not issue a denial of payment, including a revocation of the authorization for payment or a retrospective denial of payment, for any claim for medical services for which a physician or that physician's representative was previously informed by the health insurance entity's representative that prior authorization was not needed.

(c) If an individual is covered by two or more health insurance entities, then no secondary payor shall deny payment of any claim for which a physician has previously obtained authorization from a primary payor.

(d) If an individual is covered by two or more health insurance entities and if the primary payor does not require prior authorization for medical services, then no secondary payor may condition coverage on preauthorization of services.

(e) This section shall not apply if it has been determined that prior authorization was obtained fraudulently. Such determination shall be made according to rules promulgated by the department of commerce and insurance.

(f) The commissioner shall impose a civil penalty of not less than one thousand dollars (\$1,000) per occurrence for each violation of any provision of this section, or any rule or regulation promulgated hereunder. The commissioner shall impose a penalty of ten thousand dollars (\$10,000) per occurrence for the sixth violation and each subsequent violation.

SECTION 2. The commissioner of commerce and insurance is authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5, and shall become effective no later than one (1) year from the effective date of this act.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2005, the public welfare requiring it